

## Message Text

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ACTION EUR-12

INFO OCT-01 NEA-10 IO-13 ISO-00 CIAE-00 DODE-00 PM-05

H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 OMB-01 TRSE-00 EB-08 /091 W

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R 271115Z JAN 78

FM AMEMBASSY BERN

TO SECSTATE WASHDC 5648

INFO AMEMBASSY ALGIERS

AMEMBASSY BONN

AMEMBASSY LONDON

AMEMBASSY PARIS

USMISSION GENEVA

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EO 11652: N/A

TAGS: EFIN, AG, SZ

SUBJ: ALGERIAN FLN FUNDS IN SWITZERLAND

REF: 77 BERN 3522; 77 BERN 3397 (NOTAL)

1. SUMMARY: SWISS-ALGERIAN RELATIONS REMAIN STRAINED DUE CONTINUING DISPUTE OVER NATL LIBERATION FRONT (FLN) FUNDS DEPOSITED IN SWITZERLAND IN 1962. ALGERIANS HAVE LOST ANOTHER ROUND IN SWISS COURTS, WITH AT LEAST ONE OR TWO STILL TO GO. ACCORDING SWISS FEDERAL POLITICAL DEPT (FPD) OFFICIAL, ALGERIAN PRESIDENT BOUMEDIENE CONSIDERS FAILURE FPD INTERVENE TO RECOVER FUNDS AND FPD EFFORTS COLLECT COURT COSTS PERSONAL AFFRONT. END SUMMARY.

2. HANSJAKOB KAUFMANN, DEP DIR, AFRICA, ASIAN, LATIN AMERICA DIVISION, FPD, TOLD POL/ECOUNS JAN 17 THAT PROSPECTS SOLUTION SATISFACTORY TO LIMITED OFFICIAL USE

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ALGERIANS ARE SLIGHT, AND ALGERIANS SHOW NO SIGNS OF GIVING UP; ON CONTRARY.

3. FOR BACKGROUND, PLEASE SEE REFTELS. CURRENT STATUS CASE AND MOST RECENT DECISIONS ARE AS FOLLOWS:

SWISS FEDERAL APPEALS COURT NOV 15, 1977 RULED IN FAVOR OF ZUHIER MARDAM, HOLDING THAT HE ACTED LEGALLY IN HIS CAPACITY AS FIDUCIARY FOR MAJORITY OF SHREAS OF BANQUE COMERCIALE ARABE (BCA), GENEVA, WHICH HE HELD ON BEHALF OF FORMER ALGERIAN FLN TREASURER MOHAMMED KHIDER. GENEVA APPEALS COURT MAY 6, 1977 HAD HELD THAT MARDAM'S LEGAL RIGHTS HAD TERMINATED WHEN SUCCESSORS TO KHIDER'S FUNDS (EITHER HIS WIDOW OR ALGERIAN GOVT) CLAIMED RESTORATION OF BCA SHAREA AND, THEREFORE, NULLIFIED DECISIONS TAKEN DURING THREE BCA GENERAL SHAREHOLDERS MEETINGS IN 1974. HOWEVER, FEDERAL COURT SAID QUESTION MARDAM'S RIGHTS TO REPRESENT AND VOTE KHIDER'S BCA SHARES WAS NOT AT ISSUE. HE HAD FORMALLY DEPOSITED SHREAD WITH BCA AS REQUIRED BY BANK'S BY-LAWS. THEREFORE, AS FIDUCIARY OWNER OF 20,000 KHIDER SHARES OBTAINED IN 1963 AND SOLE OWNER OF ALL "A" SHARES ISSUED IN 1968 AND 1970 ON BEHALF OF UNNAMED THIRD PARTY, MARDAM HAD FULL RIGHT TO REPRESENT THESE SHARES AND VOTE THEM.

4. KAUFMANN INTERPRETS COURT RULING AS MEANING COURT BELIEVES ONLY ISSUE BEFORE IT WAS "DID BANK ACT PROPERLY IN EXECUTING MARDAM'S INSTRUCTIONS" AND COURT HAS ANSWERED THAT QUESTION AFFIRMATIVELY.

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5. ALGERIANS HAVE REFUSED ACCEPT RESULT AND ARE STILL PURSUING TWO OTHER AVENUES: RESOLUTION OF ISSUE WHETHER SUCCESSION TO KHIDER'S RIGHTS TO BANK SHARES SHOULD BE DECIDED IN FAVOR KHIDER'S HEIRS OR IN FAVOR ALGERIA, AND CRIMINAL SUIT FILED JULY 1976 BY KHIDER'S WIDOW AGAINST MARDAM ALLEGING HE ACTED FRAUDULENTLY IN CONNECTION TRANSFER BCA SHARES. PRESS REPORTS ALGERIAN GOVT HAS JOINED AS COMPLAINANT IN THIS SUIT.

6. FEDERAL POLITICAL DEPT HAS BEEN MAKING SUBSTANTIAL EFFORT PERSUADE ALGERIANS PAY COURT COSTS, AS REQUIRED SWISS LAW, IN SUIT THEY HAVE LOST. WHEN ALGERIANS REFUSED ACCEPT OR KNOWLEDGE LIABILITY, SWISS CALLED IN LE MONDE REPORTER, PRESUMABLY IN HOPE THAT IF SWISS REQUESTS NOT READ IN ALGIERS, LE MONDE IS.  
WARNER

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## Message Attributes

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